

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1440-PWS-E **TCEQ ID:** RN101178978 **CASE NO.:** 34565
RESPONDENT NAME: City of Southside Place

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Southside Place Public Water Supply, 6309 Edloe Street, Harris County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 17, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. David N. Moss, City Manager, City of Southside Place, 6309 Edloe Street, Houston, Texas 77005-3617 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 12, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 5, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>1) Exceeded the acute maximum contaminant level ("AMCL") for fecal coliform on July 3, 2007 [30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failed to notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide public notice for exceeding the AMCL for fecal coliform [30 TEX. ADMIN. CODE §§ 290.109(g)(2) and 290.122(a)(2)(B)].</p> <p>3) Failed to issue a boil water notice within 24 hours of incurring an AMCL [30 TEX. ADMIN. CODE § 290.122(a)(2)(B)].</p>	<p>Total Assessed: \$2,571</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,571</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Human health has been exposed to pollutants which exceed levels that are protective.</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure proper public notification, Commission notification and boil water notices are provided to the customers of the water supply in the event of an AMCL violation, or other conditions which indicate potability of the water may have been compromised; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

Additional ID No(s): PWS ID No. 1010023

Attachment A
Docket Number: 2007-1440-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Southside Place
Payable Penalty Amount:	Two Thousand Five Hundred Seventy-One Dollars (\$2,571)
SEP Amount:	Two Thousand Five Hundred Seventy-One Dollars (\$2,571)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ
DATES

Assigned 6-Aug-2007
PCW 4-Sep-2007

Screening 5-Sep-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent City of Southside Place
Reg. Ent. Ref. No. RN101178978
Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34565
Docket No. 2007-1440-PWS-E
Media Program(s) Public Water Supply
Multi-Media
Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

No. of Violations 3
Order Type Findings
Enf. Coordinator Andrea Linson-Mgbeodur
EC's Team EnforcementTeam 2

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,350

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 9% Enhancement Subtotals 2, 3, & 7 \$121

Notes The penalty enhancement is due to one Notice of Violations ("NOV") for same or similar violations as those in the current enforcement action and two dissimilar NOV's.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer
Extraordinary
Ordinary
N/A X (mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,125
Approx. Cost of Compliance \$1,100
0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,471

OTHER FACTORS AS JUSTICE MAY REQUIRE

84%

Adjustment \$1,100

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount \$2,571

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,571

DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$2,571

Screening Date 5-Sep-2007

Docket No. 2007-1440-PWS-E

PCW

Respondent City of Southside Place

Policy Revision 2 (September 2002)

Case ID No. 34565

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101178978

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 9%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty enhancement is due to one Notice of Violations ("NOV") for same or similar violations as those in the current enforcement action and two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date 5-Sep-2007 Respondent City of Southside Place Case ID No. 34565 Reg. Ent. Reference No. RN101178978 Media [Statute] Public Water Supply Enf. Coordinator Andrea Linson-Mgbeoduru Violation Number <input type="text" value="1"/>	Docket No. 2007-1440-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>																				
Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(1)(B) and Tex. Health and Safety Code § 341.0315(c)																					
Violation Description Exceeded the acute maximum contaminant level ("AMCL") for fecal coliform on July 3, 2007. Specifically, a sample collected at 3736 and 3760 Bellaire Boulevard tested positive for fecal coliform.																					
Base Penalty <input type="text" value="\$1,000"/>																					
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td style="text-align: center;">X</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual	X				Potential				
		Major	Moderate	Minor																	
	Release																				
Actual	X																				
Potential																					
Percent <input type="text" value="50%"/>																					
>> Programmatic Matrix																					
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Potential																					
Percent <input type="text" value="0%"/>																					
Matrix Notes Customers of the public water system have been exposed to contaminants which exceed levels that are protective of human health.																					
Adjustment <input type="text" value="\$500"/>																					
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Violation Events																					
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Violation Base Penalty <input type="text" value="\$1,000"/>																					
<div style="border: 1px solid black; padding: 5px; text-align: center;">Two single events are recommended.</div>																					
<table style="width: 100%;"> <tr> <td style="width: 50%;">Economic Benefit (EB) for this violation</td> <td style="width: 50%;">Statutory Limit Test</td> </tr> <tr> <td> Estimated EB Amount <input type="text" value="\$525"/> </td> <td> Violation Final Penalty Total <input type="text" value="\$1,904"/> </td> </tr> <tr> <td colspan="2"> This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,904"/> </td> </tr> </table>		Economic Benefit (EB) for this violation	Statutory Limit Test	Estimated EB Amount <input type="text" value="\$525"/>	Violation Final Penalty Total <input type="text" value="\$1,904"/>	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,904"/>															
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Economic Benefit Worksheet

Respondent City of Southside Place
Case ID No. 34565
Reg. Ent. Reference No. RN101178978
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$500	1-Jul-2007	31-Jul-2007	1.0	\$25	\$500	\$525

Notes for AVOIDED costs

Estimated costs include the amount for additional sampling and oversight which could have prevented the acute MCL exceedance, calculated for the month in which the exceedance occurred.

Approx. Cost of Compliance

\$500

TOTAL

\$525

Screening Date 5-Sep-2007

Docket No. 2007-1440-PWS-E

PCW

Respondent City of Southside Place

Policy Revision 2 (September 2002)

Case ID No. 34565

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101178978

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(g)(2) and 290.122(a)(2)(B)

Violation Description

Failed to notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide public notice for exceeding the AMCL for fecal coliform.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$190

This violation Final Assessed Penalty (adjusted for limits) \$190

Economic Benefit Worksheet

Respondent City of Southside Place

Case ID No. 34565

Reg. Ent. Reference No. RN101178978

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	3-Jul-2007	4-Jul-2007	0.0	\$0	\$100	\$100

Notes for AVOIDED costs

Estimated cost of notifying the Commission within 24 hours of incurring an acute MCL.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 5-Sep-2007

Docket No. 2007-1440-PWS-E

PCW

Respondent City of Southside Place

Policy Revision 2 (September 2002)

Case ID No. 34565

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101178978

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.122(a)(2)(B)

Violation Description

Failed to issue a boil water notice ("BWN") within 24 hours of incurring an AMCL.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to issue a BWN could result in customers of the public water supply being exposed to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$500

Violation Final Penalty Total \$476

This violation Final Assessed Penalty (adjusted for limits) \$476

Economic Benefit Worksheet

Respondent City of Southside Place

Case ID No. 34565

Reg. Ent. Reference No. RN101178978

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$500	3-Jul-2007	4-Jul-2007	0.0	\$0	\$500	\$500

Notes for AVOIDED costs

Estimated cost includes the amount necessary to provide all customers of the water supply with a proper boil water notice. Calculated for the 24 hour period after the AMCL violation for which a BWN should have been issued.

Approx. Cost of Compliance

\$500

TOTAL

\$500

Compliance History

Customer/Respondent/Owner-Operator:	CN600626758	City of Southside Place	Classification: Average	Rating: 2.62
Regulated Entity:	RN101178978	CITY OF SOUTHSIDE PLACE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010023	
	WATER LICENSING	LICENSE	1010023	
Location:	6309 EDLOE ST, HARRIS COUNTY			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	September 04, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 04, 2002 to September 04, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Barnett	Phone:	713-767-3680	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - 1 03/25/2004 (260478)
 - 2 07/05/2007 (569300)
 - 3 07/25/2007 (567054)
 - 4 07/31/2007 (570293)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/16/2004 (260478)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to replace missing barbed wire along the top of the fence.

Date: 07/05/2007 (569300)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)(2)

Description: 07/2007 - Failure to notify the TCEQ within 24 hrs of incurring the acute maximum contaminant level (AMCL).

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(4)

Description: 07/2007 - Failure to rescind BWN in the same manner as initiating the BWN.

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Description: 07/2007 - Failure to send proof of BWN to the TCEQ within 10 days of posting notice.

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description: 07/2007 - Failure to post a BWN within 24 hrs after incurring an acute maximum

contaminant level violation.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)
Description: 07/2007 - Failure to post an acute maximum contaminant level (AMCL) PN within 24 hrs after notifying the TCEQ in 07/2007.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)
Description: 07/2007 - Failure to send proof of PN to the TCEQ within 10 days of posting notice.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)
Description: 07/2007 - Exceeded an acute maximum contaminant level (AMCL) violation in 07/2007.

Date: 07/20/2007 (567054)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to replace missing barbed wire along the top of the fence.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)

Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements."

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SOUTHSIDE PLACE
RN101178978

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1440-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Southside Place ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 6309 Edloe Street in Harris County, Texas (the "Facility") that has approximately 665 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on July 12, 2007, TCEQ staff documented that the City:
 - a. Exceeded the acute maximum contaminant level ("AMCL") for fecal coliform on July 3, 2007. Specifically, samples collected at 3736 and 3760 Bellaire Boulevard tested positive for fecal coliform;
 - b. Did not notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide public notice ("PN") for exceeding the AMCL for fecal coliform; and
 - c. Did not issue a boil water notice ("BWN") within 24 hours of incurring an AMCL.
3. The City was notified of the AMCL violation by letter dated July 5, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2.a., the City exceeded the AMCL for fecal coliform on July 3, 2007, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 2.b., the City failed to notify the Commission within 24 hours of incurring an AMCL for fecal coliform and failed to provide PN for exceeding the AMCL for fecal coliform, in violation of 30 TEX. ADMIN. CODE §§ 290.109(g)(2) and 290.122(a)(2)(B).
4. As evidenced by Findings of Fact No. 2.c., the City failed to issue a BWN within 24 hours of incurring an AMCL, in violation of 30 TEX. ADMIN. CODE § 290.122(a)(2)(B).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Two Thousand Five Hundred Seventy-One Dollars (\$2,571) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Two Thousand Five Hundred Seventy-One Dollars (\$2,571) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of of Two Thousand Five Hundred Seventy-One Dollars (\$2,571) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Southside Place, Docket No. 2007-1440-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Two Thousand Five Hundred Seventy-One Dollars (\$2,571) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure proper public notification, Commission notification and boil water notices are provided to the customers of the water supply in the event of an AMCL violation, or other conditions which indicate potability of the water may have been compromised, as required by 30 TEX. ADMIN. CODE §§ 290.109 and 290.122; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section, Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission’s jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

3/5/2008
Date

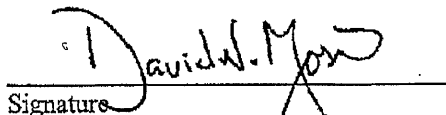
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Southside Place. I am authorized to agree to the attached Agreed Order on behalf of City of Southside Place, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Southside Place waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

January 7, 2008
Date

David N. Moss
Name (Printed or typed)
Authorized Representative of
City of Southside Place

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1440-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Southside Place
Payable Penalty Amount:	Two Thousand Five Hundred Seventy-One Dollars (\$2,571)
SEP Amount:	Two Thousand Five Hundred Seventy-One Dollars (\$2,571)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

